

December 19, 2003

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.,  
Washington, DC 20554

Re: In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, CC Docket No. 01-338;

Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96-98; and Deployment of Wireline Services Offering Advanced Telecommunications Capability, CC Docket No. 98-147.

Appropriate Regulatory Treatment for Broadband Access to the Internet over Cable Facilities, CS Docket No. 02-52

Re: In the Matter of Appropriate Framework for Broadband Access to the Internet over Wireline Facilities, CC Docket No. 02-33

Universal Service Obligations of Broadband Providers, CC Docket No. 02-33

Computer III Further Remand Proceedings: Bell Operating Company Provision of Enhanced Services; 1998 Biennial Regulatory Review – Review of Computer III and ONA Safeguards and Requirements, CC Dockets Nos. 95-20, 98-10

Appropriate Regulatory Treatment for Broadband Access to the Internet over Cable Facilities, CS Docket No. 02-52

Notice of Oral Ex Parte Presentation

Dear Ms. Dortch:

On Wednesday and Thursday, December 17 and 18, 2003 various members of the High Tech Broadband Coalition (HTBC) including Peter

Pitsch of Intel Corporation, Jeff Campbell of Cisco Corporation, Grant Seiffert and Derek Khlopin of the Telecommunications Industry Association, Paul Kenefick of Alcatel, Nick Kolovos of the Information Technology Council and David Peyton of the National Association of Manufacturers met in separate meetings with Christopher Libertelli and Trey Hanbury of Chairman Powell's office, Lisa Zaina of Commissioner Adelstein's Office and Jessica Rosenworcel of Commissioner Copp's office regarding the above referenced FCC broadband proceedings. Not every one of the above HTBC representatives was in every meeting. In the course of the discussion the HTBC representatives made several points that are set out in the attached HTBC pleading and *ex parte* letter.

In addition to the substantive points made in these documents, they stated:

- The Commission should act expeditiously on the above referenced proceedings.
- Notwithstanding the *Brand X* decision that concluded that cable modem service is a telecommunications service, the FCC has the legal authority to adopt its tentative conclusion that wire line broadband Internet access services are Title I services that should be subject only to minimal regulation. The same classification should also apply to stand-alone broadband transport service offerings.
- The FCC's authority to declare telecommunications service to be private carriage under Title I is unaffected.
- The FCC has frequently used Title I to declare particular telecommunications services to be private carriage not subject to Title II common carriage.
- So while the court decision precludes the FCC from using Title I to define broadband services as an information service, the FCC can achieve the same result by defining these services as private carriage.
- This approach is consistent with HTBC's letter and principles filed with the Commission on September 25, 2003.

Pursuant to Section 1.1206(b) of the Commission's Rules, an electronic copy of this letter is being submitted to the Secretary's Office and

to Mssrs. Libertelli and Hanbury, Ms. Zaina and Ms. Rosenworcel. Please inform me if any questions should arise in connection with this filing.

Respectfully submitted,

Peter Pitsch

cc:

Christopher Libertelli

Trey Hanbury

Lisa Zaina

Jessica Rosenworcel